

**IT IS ORDERED**

**Date Entered on Docket: April 1, 2021**



A handwritten signature in black ink that reads "Robert H. Jacobvitz".

**The Honorable Robert H Jacobvitz  
United States Bankruptcy Judge**

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

**IN RE:**

**Pamela Darlene Torrez  
David Charles Torrez,  
Debtors**

**Case No. 20-12366-ja7**

**STIPULATED ORDER GRANTING MOTION FOR RELIEF FROM THE  
AUTOMATIC STAY AND ABANDONMENT OF PROPERTY**

This matter came before the court on the stipulation of relief from the automatic stay and abandonment, between the Creditor Primary Residential Mortgage, Inc. ("Creditor"), and the Debtors Pamela Darlene Torrez and David Charles Torrez ("Debtors"), by and through their respective attorneys of record, and the Chapter 7 trustee.

The Court, having reviewed the agreement as expressed in this Stipulated Order and being otherwise sufficiently informed, FINDS:

- (a) The Court has jurisdiction over the parties and the subject matter of this Stipulated Order.
- (b) On February 5, 2021, Creditor served the Motion for Relief from Stay and Abandonment of Property ("Motion") (Doc. 12) and Notice of Objection to the Motion (Doc. 13) on Ronald E Holmes, counsel for the Debtors and the case trustee ("Trustee")

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Stipulated Order for Relief from the Automatic Stay, Case No. 20-12366-ja7

by use of the Court's case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3), and NM LBR 9036-1, and on the Debtors by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

- (c) On February 9, 2021, the Trustee filed a Response to the Motion (Doc. 15).
- (d) On February 25, 2021, the Debtor filed a Response to the Motion (Doc. 24).
- (e) The Motion relates to the following property:

Lot numbered Fourteen (14), in Block numbered Eight (8), of RIO RANCHO HAWKSITE, as the same is shown and designated on the plat entitled "RIO RANCHO HAWKSITE TRACTS 33 AND 34, SUBDIVISION OF TRACTS 33 AND 34, WITHIN UNITY TWENTY-FIVE, WITHIN SECTION 8, T.13N., R.3E., N.M.P.M., CITY OF RIO RANCHO, SANDOVAL COUNTY, NEW MEXICO", filed in the office of the County Clerk of Sandoval County, New Mexico, on January 31, 2007, in Vol. 3, folio 2769A, (Rio Rancho Estates Plat Book No. 20, pages 97-100).

Commonly known as 6400 Osprey Drive NE, Rio Rancho, NM 87144 ("Property").

- (f) The parties wish to stipulate to the stay relief, as provided in this Stipulated Order.
- (g) No notice to other creditors of the stay relief is necessary.

**IT IS THEREFORE ORDERED:**

1. Secured Creditor shall receive monthly updates on who is occupying and maintaining the property. If the property is vacant, Secured Creditor reserves the right to secure and maintain to ensure no damage occurs.

2. Secured Creditor shall receive a full payoff, which covers all fees and charges including attorney fees and securing and maintenance fees as applicable pursuant to the above paragraph, one (1).

3. The Motion is hereby granted, and pursuant to 11 U.S.C. §362(d), Creditor, is hereby granted relief from the automatic stay after 180 days after the entry of this Order:

(a) To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtors are a party, to the extent permitted by applicable nonbankruptcy law, such as by commencing or proceeding with appropriate action against the Debtors or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to them under law or equity with respect to the Property.

4. The Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 after 180 days after the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Creditor need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

5. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtors, although the Debtors can be named as defendants in litigation to obtain an in rem judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

6. This Order does not waive Creditor's claim against the estate for any Deficiency owed by the Debtors after any foreclosure sale or other disposition of the Property. Creditor may file an amended proof of claim in this bankruptcy case within 30 days after a foreclosure sale of the Property, should it claim that Debtors owes any amount after the sale of the Property.

7. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This Order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

7. This Stipulated Order shall be binding and effective upon any conversion of this case to another chapter under the Bankruptcy Code.

8. The continued preliminary hearing on the Motion currently scheduled for April 8, 2021 at 11:00 am is hereby vacated.

### End of Order ###

RESPECTFULLY SUBMITTED AND AGREED TO BY:

McCarthy & Holthus, LLP

By /s/ Jason Bousliman  
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AGREED TO BY:

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